REMARKS

In the foregoing amendments, claims 1-10 are canceled without prejudice, disclaimer, or waiver; and claims 11-39 are added. Claims 11-39 are now pending in the present application.

I. Response to Objections to the Specification

The specification was objected to because of a minor typographical error. The error has been corrected according to the Examiner's suggestion. Other minor grammatical and typographical errors observed throughout the specification have also been corrected by amendment herein.

II. Response to Claim Objections and Rejections

Claims 6 and 8 were objected to and claims 7 and 9 were rejected under 35 U.S.C. §112, second paragraph. Since these claims have been canceled, these objections and rejections are now moot. New claims 11-39 do not contain the language that the Examiner held to be objectionable. The new claims have been written to avoid the issues noted by the Examiner and to correct other informalities.

Applicant wishes to clarify that the cancellation of claims 1-10 and the addition of claims 11-39 have been made for the purpose of better defining the invention in response to the rejections made under 35 U.S.C. §112 and according to other observed informalities. The amendments have been made as a matter of form to make the claims more readable and have not been made for reasons related to patentability. Applicant submits that no substantive limitations have been added to the claims based on prior art. Therefore, no prosecution history estoppel arises from these amendments. *Black & Decker, Inc. v. Hoover Service Center* 886 F.2d 1285, 1294 n. 13 (Fed. Cir. 1989).

III. Response to 35 U.S.C. §102 Rejection

Claims 1-10 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by *Huberman* (U.S. Patent No. 5,826,244). Because of the cancellation of these claims, this rejection is rendered moot. With respect to new claims 11-39, Applicant respectfully requests that the Examiner kindly withdraw the rejection since *Huberman* does not disclose each and every element of the new independent claims.

11

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983).

A. *Huberman* (U.S. Patent No. 5,826,244)

Huberman appears to be directed to a device for auctioning document services. The document services include, for example, printing, scanning, interpretation, *etc.* (col. 3, lines 45-50). Fig. 2 illustrates software processes in a document service auction including customer processes 210, supplier processes 220, and a broker process 210. Broker process 230 oversees the auction and acts as auctioneer, facilitating transactions between the customer processes 210 and the supplier processes 220 (col. 8, lines 5-6).

However, it should be noted that *Huberman* is directed to a conventional auction arrangement in which one item or service up for bid is auctioned without any correlation to other auctions. In this regard, *Huberman* states that "the auction has at most one winning customer process 210 and at most one winning supplier process 220, possibly chosen from among several potential winners" (col. 1, lines 10-13). Furthermore, *Huberman* states that "[e]ach auction is for a separate job, that is, for a separately specified document service, and has at most one winning process 210 and at most one winning supplier process 220" and that "[e]ach auction is separately carried out..." (col. 18, lines 42-47).

In the Office Action, the Examiner points to col. 17, lines 1-5 in which *Huberman* apparently teaches that an intelligent agent can be instructed to roam network 100 in search of good deals according to customer needs and make bids on behalf of the customer up to a pre-authorized spending limit. It appears that this aspect is not further developed in *Huberman* and is disconnected from the rest of the disclosure. More importantly though, this passage in *Huberman* does not meet the limitations of the newly added independent claims, as mentioned in more detail below.

B. Claim 11

Independent claim 11 is directed to a system for trading goods or services. The system includes a plurality of auction entities in communication with a trading

entity. The trading entity is operative to select a number of auction entities that include similar goods or services for trading and is operative to *"monitor the highest active bids for the similar goods or services on each of the selected auction entities."* Applicant asserts that *Huberman* does not disclose this operation. Instead, *Huberman* merely roams the network in search of "good deals." However, searching for good deals does not meet the claimed operation of monitoring bids "for the similar goods or services" on different auction entities. In contrast, searching for good deals implies a typical bargain hunting scheme in which any good deal is worthy of a bid. Apparently, when the intelligent agent of *Huberman* finds a good deal, it simply makes a bid. It does not monitor bids on "each of the selected auction entities," as claimed, before making the bid.

Moreover, claim 11 further includes that the trading entity is operative to *"compare the highest active bids."* Again, *Huberman* fails to disclose such an operation. Instead, *Huberman* searches for "good deals," but is not particularly concerned about <u>getting the best deal</u> or even <u>attempting</u> to get the best deal. Since *Huberman* appears to be content with the good deal, regardless of what other deals may be available, no comparison shopping is performed to place a bid in an attempt to get the best deal from a number of different auction. *Huberman* is therefore consistent with conventional auction mechanisms in which bids are made for one item or service at a time and is silent regarding the claimed operation of comparing bids from the different auction entities.

Claim 11 also includes that the trading entity is operative to *"provide a lowest possible bid to outbid one of the highest active bids based on the comparison..."* Applicant contends that *Huberman* does not disclose this aspect of claim 11. *Huberman* is silent concerning the specifics of finding a good deal and does not provide a "lowest possible bid" as claimed. Furthermore, it appears that *Huberman* may actually make bids (within a preauthorized spending limit) on <u>all</u> good deals. In contrast to the present claims, *Huberman* does not provide a lowest possible bid to "outbid <u>one</u> of the active bids." And lastly, *Huberman* does not provide a bid that is "based on the comparison," since, as mentioned above, *Huberman* fails to compare bids.

For at least these reasons, Applicant asserts that claim 11 is allowable over *Huberman*, and therefore respectfully requests that the Examiner kindly withdraw the rejection.

C.   Claim 16

Independent claim 16 is directed to a computer program operating in a trading device. The computer program comprises logic for monitoring trading data from each of a plurality of auction entities, the trading data related to said similar goods or services. The computer program further includes logic for processing the trading data to *"determine a lowest possible bid for outbidding a leading bid on one of the auction entities."* *Huberman* does not disclose such a feature, but merely searches for good deals on which to bid, and yet is silent concerning the specifics of how the good deal is actually found. *Huberman* does not appear to discriminate one deal from another and therefore fails to teach determining a <u>lowest possible bid</u> since a good deal may not result in the lowest possible bid in comparison to other auction entities trading similar goods or services. Furthermore, *Huberman* does not determine a lowest possible bid for outbidding a leading bid on "one of the auction entities." In this respect, Huberman fails to get the one best deal on the <u>one</u> auction entity.

For at least these reasons, Applicant asserts that claim 16 is allowable over *Huberman,* and therefore respectfully requests that the Examiner kindly withdraw the rejection.

D.   Claim 28

Independent claim 28 is directed to a method that includes selecting multiple auction entities, each auction entity including an item open for bid similar to an item open for bid on the other auction entities. The method further comprises *"monitoring the highest bid for the item on each auction entity."* Applicant contends that *Huberman* does not disclose this step. Instead, *Huberman* merely roams the network in search of good deals, but fails to disclose monitoring bids for similar items on different auction entities. The aspect of searching for good deals may involve monitoring bids for individual auctions, but this aspect falls short of the claim limitation in which monitoring the highest active bids is performed for the similar item "on each auction entity."

Claim 28 also includes *"determining a lowest possible bid to outbid one of the highest bids on a respective auction entity."* Again, *Huberman* is silent concerning the specifics of finding a good deal and does not determine a "lowest possible bid" as claimed. Furthermore, it appears that *Huberman* may actually attempt to bid on all good deals and is not concerned with trying to get the best deal. Therefore, in contrast to the present claims, *Huberman* does not provide a lowest possible bid to "outbid *one* of the highest bids."

Anticipation requires identity of the claimed process and a process of the prior art. The claimed process, including each step thereof, must have been described or embodied, either expressly or inherently, in a single reference. *See, e.g., Glaverbel S.A. v. Northlake Mkt'g & Supp., Inc.,* 45 F.3d 1550, 33 USPQ 2d 1496 (Fed. Cir. 1995).

For at least these reasons, Applicant asserts that claim 28 is allowable over *Huberman*, and therefore respectfully requests that the Examiner kindly withdraw the rejection.

E. Claim 36

Independent claim 36 is directed to a trading entity in a trading system, the trading entity comprising first, second, and third modules. The first module is configured to select a plurality of auction entities that each provide a similar good or service up for bid. The second module is configured to *"monitor the highest active bid for the similar good or service on each auction entity."* Applicant asserts that *Huberman* does not disclose this operation. Instead, *Huberman* merely roams the network in search of "good deals." In contrast to the present claims, however, searching for good deals is not the same as monitoring bids "for the similar goods or services" on different auction entities. Instead, searching for good deals implies a typical bargain hunting scheme in which any good deal is worthy of a bid. Apparently, when the intelligent agent of *Huberman* finds a good deal, it simply makes a bid. It does not monitor bids on "each of the selected auction entities," as claimed, before making the bid.

The third module of claim 36 is configured to *"to process the highest active bids to calculate a lowest possible bid for outbidding one of the highest active bids."* Applicant contends that *Huberman* does not disclose this aspect of claim 36.

15

Huberman is silent concerning the specifics of finding a good deal and does not calculate a "lowest possible bid" as claimed. Furthermore, it appears that *Huberman* may actually make bids (within a preauthorized spending limit) on all good deals. In contrast to the present claims, *Huberman* does not provide a lowest possible bid for "outbidding one of the active bids." And lastly, *Huberman* does not appear to "process" the highest active bids in order to calculate the lowest possible bid.

For at least these reasons, Applicant asserts that claim 36 is allowable over *Huberman*, and therefore respectfully requests that the Examiner kindly withdraw the rejection.

F.   Dependent Claims

Dependent claims 12-15, 17-27, 29-35, and 37-39 are believed to be allowable for at least the reason that these claims depend from allowable independent claims 11, 16, 28, and 36. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).
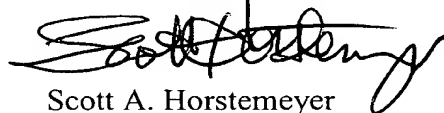
IV.   Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 11-39 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at (770) 933-9500.

Respectfully submitted,

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Signature -

17